

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEROME CAMPBELL,

Defendant-Appellant.

UNPUBLISHED

October 14, 2004

No. 247881

Wayne Circuit Court

LC No. 02-013532-01

Before: Griffin, P.J., and Saad and O'Connell, JJ.

PER CURIAM.

A jury convicted defendant Jerome Campbell of possession with intent to deliver 50 grams or more but less than 225 grams of cocaine¹ and possession of a firearm during the commission of a felony ("felony-firearm").² The trial court sentenced defendant to two to twenty years in prison for the possession with intent to deliver cocaine conviction, to be served consecutively to a mandatory two-year prison term for the felony-firearm conviction. Defendant appeals his convictions and sentences, and we affirm.³

Defendant argues that the evidence was insufficient to sustain the verdict. When we review the sufficiency of the evidence in a criminal case, we must review the record de novo viewing both direct and circumstantial evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proved beyond a reasonable doubt. *People v Hoffman*, 225 Mich App 103, 111; 570 NW2d 146 (1997); *People v Hammons*, 210 Mich App 554, 556; 534 NW2d 183 (1995). Circumstantial evidence and reasonable inferences drawn therefrom are sufficient to prove the elements of a crime. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). It is for the trier of fact to determine what inferences may be fairly drawn from the evidence and to determine the weight to be accorded those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). All conflicts in the evidence are to be resolved in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

¹ MCL 333.7401(2)(a)(iii).

² MCL 750.227b.

³ This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The elements of possession with intent to deliver 50 grams or more but less than 225 grams of cocaine are (1) defendant knowingly possessed a controlled substance, (2) defendant intended to deliver the substance to someone else, (3) the substance possessed was cocaine and defendant knew it was cocaine and (4) the substance was in a mixture that weighed the requisite amount. *People v Crawford*, 458 Mich 376, 389; 582 NW2d 785 (1998). Actual delivery of the controlled substance is not necessary to prove intent to deliver. *People v Wolfe*, 440 Mich 508, 524; 489 NW2d 748, amended 441 Mich 1201 (1992). Intent to deliver may be inferred from all of the facts and circumstances, including the amount of narcotics and the way in which they are packaged. Minimal circumstantial evidence is sufficient. *Id.*; *People v Fetterley*, 229 Mich App 511, 517-518; 583 NW2d 199 (1998).

Here, the evidence showed that defendant had actual possession of a bag containing chunks of cocaine weighing 126.6 grams. He had over \$1,800 in cash on his person and was seated at a table on which there were dozens of empty sandwich bags and a digital scale in addition to larger quantities of cocaine and a large amount of cash. Given such evidence, a reasonable trier of fact could infer that defendant intended to deliver the cocaine.

To convict a defendant of felony-firearm, the prosecution must prove that the defendant possessed a firearm during the commission or attempted commission of any felony other than those four enumerated in the statute. MCL 750.227b(1); *People v Mitchell*, 456 Mich 693, 698; 575 NW2d 283 (1998); *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999). The felony-firearm statute does not proscribe ownership of a weapon, only carrying or possessing the weapon. *People v Burgenmeyer*, 461 Mich 431, 436-438; 606 NW2d 645 (2000). Possession of a weapon may be actual or constructive and joint or exclusive and may be proved by circumstantial evidence. *People v Hill*, 433 Mich 464, 469-470; 446 NW2d 140 (1989). “[A] defendant has constructive possession of a firearm if the location of the weapon is known and it is reasonably accessible to the defendant.” *Id.* at 470-471.

Here, the evidence showed that defendant committed the felony by possessing cocaine with intent to deliver it. At the time he possessed the cocaine, he did not have actual possession of a firearm. But a loaded handgun was at the table by which he was seated and a loaded assault rifle was a few feet away. Such evidence was sufficient to prove constructive possession beyond a reasonable doubt.

Affirmed.

/s/ Richard Allen Griffin
/s/ Henry William Saad
/s/ Peter D. O'Connell